

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RICK SALOMON,

Plaintiff,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Defendants.

and

FEDERAL HOUSING FINANCE AGENCY,  
as Conservator of the Federal National  
Mortgage Association,

Intervenor.

Case No. 2:14-cv-02225-MMD-PAL

ORDER

Before the Court is Defendant Federal National Mortgage Association (“Fannie Mae”) and Intervenor Federal Housing Finance Agency’s (“FHFA”) (collectively, “Fannie Mae”) Motion for Summary Judgment (“Motion”). (Dkt. no. 26.) Plaintiff Rick Solomon has opposed (dkt. no. 36) and Fannie Mae has replied (dkt. no. 45).

The Motion raises the same legal issue as that raised in Fannie Mae’s motion for summary judgment in a related case, case no. 2:15-cv-00112-MMD-CWH (“Related Case”). In fact, the Court held a joint hearing for both cases on February 10, 2016. (Dkt. no. 62.) On the identical legal issue, the Court finds that NRS § 116.3116 is preempted to the extent that it allows an HOA foreclosure sale to extinguish a first deed of trust held by FHFA as Fannie Mae’s conservator without FHFA’s consent. The Court incorporates its reasoning in the Order denying Fannie Mae’s motion in the Related Case. (See dkt. no. 65 in the Related Case.)

1 As in the Related Case, Fannie Mae relies in part on the declaration of John  
2 Curcio ("Curcio Declaration), Fannie Mae's Assistant Vice President, which includes  
3 printouts from Fannie Mae's Servicer and Investor Reporting system. (Dkt. no. 26-2.)  
4 Viewing the evidence submitted with the Curcio Declaration in the light most favorable  
5 to the non-moving party, the Court finds that a rational trier of fact could find that Fannie  
6 Mae has not demonstrated that it has a property interest in the property at issue in this  
7 case at the time of the HOA foreclosure sale for the same reasons explained in the  
8 Related Case. (See dkt. no. 65 in the Related Case.) Accordingly, although the Court  
9 agrees with Fannie Mae on the preemption issue, the Court will deny the Motion.

10 DATED THIS 17<sup>th</sup> day of March 2016.

A handwritten signature in blue ink, appearing to read "Miranda M. Du", is written over a horizontal line.

MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE